

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY
CITY OF GARDNER, KANSAS**

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August 2, 2021

The City Council of the City of Gardner, Kansas met in regular session on August 2, 2021, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Mark Baldwin, Kacy Deaton, Randy Gregorcyk (via phone), and Tory Roberts. City staff present were City Administrator James Pruetting; Deputy City Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief James Belcher; Utilities Director Gonzalo Garcia; Parks and Recreation Superintendent Adraina Holopirek; Community Development Director David Knopick; Public Works Director Kellen Headlee; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the sign-in sheet and others who did not sign in.

CALL TO ORDER

There being a quorum of Councilmembers present, Mayor Shute called the meeting to order at 7:06 p.m.

PLEDGE OF ALLEGIANCE

Mayor Shute led those present in the Pledge of Allegiance.

PRESENTATIONS

1. 2021 Gardner Fireworks Survey Results

Deputy City Administrator Amy Nasta presented the results from the 2021 fireworks survey. At the July 6, 2021, Gardner City Council meeting, the Governing Body requested that staff conduct a citizen survey regarding fireworks. The survey was hosted on SurveyMonkey from Friday, July 9, 2021, through Friday, July 23, 2021. Staff notified residents of the survey via the city website, social media, Constant Contact, and TextCaster. While there are varied methods for hosting a survey, SurveyMonkey was selected to provide an efficient, cost-effective method for gathering citizen responses. 3,358 responses were received, just over 2,000 more responses than any previous city survey hosted on SurveyMonkey. This also includes three paper copies supplied as part of a request for accommodation. While the sample size of paper copies is small, the responses varied in a manner similar to those in the electronic responses. The answer to the first survey question, "are you a Gardner resident?" gated the balance of the questions. Only those responding affirmatively were able to complete the survey. 3,256 respondents, or 97.05%, indicated they were Gardner residents. Respondents were asked to detail any fireworks-related concerns they may have experienced, and could select as many items as they wished. About 52% of respondents indicated they had no fireworks-related concerns, while concerns with debris and about fireworks being discharged outside of allowed dates or times were each identified as concerns by 32-36% of respondents. Six percent of respondents identified property damage as a concern. This question allowed respondents to utilize a textbox to specify any other concerns they experienced. About 9% of respondents provided a verbatim response to the question regarding concerns. These responses were then categorized and shown in the presentation. The size of each category name is representative of the amount of times a particular concern was included in the response, with concerns regarding dates and times, locations, the type of fireworks being utilized, and noise being the most prevalent. Other responses included positive comments, concerns about neighbors, safety concerns, comments regarding enforcement, and concerns about high impact groups. When asked if the discharge of fireworks should be allowed in Gardner, 79% of respondents indicated fireworks should be allowed, while 21% indicated fireworks should not be allowed. The next three survey questions discussed the degree of restriction that respondents believe dates, times, and locations for fireworks discharge should be subject to as compared to the 2021 regulations. Response categories were comprised of a five-point scale, ranging from "significantly more restrictive" to "Significantly less restrictive", with a neutral option of "stay about the same". For dates of discharge, approximately 48% of respondents felt that the dates should remain the same, while approximately 36% believed the dates should be more restrictive, and 16% believed they should be less restrictive. For times of discharge, approximately 55% of respondents felt that the times should remain the same, while approximately 33% believed the times should be more restrictive, and 12% believed they should be less restrictive. Respondents were asked to rate how they felt about the current seven day period for fireworks sales. Approximately 63% of respondents felt the time frame was "just right". 23% believed the period included too many days, and approximately 14% believed too few days were included. For locations of discharge, approximately 59% of respondents felt that the locations should remain the same, while approximately 29% believed the times should be more restrictive, and 12% believed they should be less restrictive. Respondents

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were asked to specify the number of days they believed fireworks should be sold. Approximately 64% of respondents believe fireworks should be sold for seven days or more. An additional 26% believe sales should last somewhere between 1-5 days. Five percent of respondents believe fireworks should not be sold at all. About 2% of respondents feel the days of sale should be related to the days allowed for discharge. Respondents were asked to rate the number of days the discharge of fireworks was allowed. Approximately 53% believed the current amount of three days was just right, 31% of respondents felt there were too many days allowed for discharge, while 16% believed there were too few days included. Respondents were asked if the discharge of fireworks should be allowed on the day after Independence Day. The responses were split, with 49% saying discharge should be allowed after Independence Day, and 51% indicating it should not be allowed. Then the respondents were asked to rank four sets of dates and an "other" category, which allowed them to enter their own set of dates. July 2-July 4 obtained the highest ranking, followed by a close ranking between July 3 and 4 and July 3-5. July 4 only received a significantly lower ranking, while the "other" category received the lowest ranking of all. Respondents were asked to rate the current fireworks end time of 11:00 PM. 62% of respondents felt the end time was just right, 28% of respondents felt the end time was too late, while 10% believed it was too early. Finally, respondents were asked if the discharge of fireworks should be allowed later on Independence Day itself than on other days. The responses were split, with 51% saying discharge should be allowed later on Independence Day, and 49% indicating it should not. Staff will provide a copy of the results of the survey on the City's website for the public to view later this week.

Mayor Shute asked if individual responses be included on the website. Nasta can include comparison categories, but can't sort them by individual. Shute asked about the free form comments. Nasta will include free form comments that are non-numerical.

Councilmember Baldwin said the data reinforced that fireworks are popular, and beat the last survey by 2000. They may consider switching to the 2nd through the 4th, and allow the 4th to midnight. Councilmember Gregorcyk supports the 2nd-4th, and limiting the days of sale. Baldwin said the data doesn't support that. Shute said the majority thinks 7 days is sufficient. Gregorcyk asked for consideration. Shute asked for consensus. Councilmember Deaton asked if they want to send it to the citizen committee. She noted most people like how it is. Baldwin said it doesn't need to go back to the committee when the majority spoke on the same. The data supports the 2nd-4th, then later on the 4th. Councilmember Roberts asked if they could consider New Year's Eve in. Nasta said some verbatim responses were for NYE. Baldwin asked for support to change to the 2nd-4th. Shute confirmed consensus. Baldwin asked about midnight on the 4th? Deaton said communication is an issue. Having the same hours each day is easier to communicate. Winters and Gregorcyk agreed. Gregorcyk said the survey is a small sample size. Baldwin asked about setting it at midnight on 2nd-4th? Roberts said that's late, supports 11pm. Winters and Gregorcyk support 11pm. Shute suggested keeping it at 11pm. Baldwin asked for support for NYE. Roberts supports, Gregorcyk said no. Shute asked what NYE times would be. Deaton said times would go past midnight. Roberts said its one day. Deaton asked how late they would be allowed. Winters and Gregorcyk don't support allowing them on the New Year holiday. Baldwin suggested from 11:30pm to 12:30am, not a whole day. Shute doesn't support, but asked if there is consensus. Roberts, Deaton and Baldwin said yes. Nasta can bring it back as ordinance for voting. Deaton liked the one hour from 11:30p-12:30a. Roberts said people shoot them off anyway. It would free PD for more important calls on NYE. Chief Belcher said one local jurisdiction allows on NYD only. He recommends no on NYE or NYD. Administrator Pruetting will bring something forward for discussion. Gregorcyk asked about using the permitting process to regulate the size or gauge of fireworks. Pruetting said the state law allows for class C fireworks, but internally they can make a rule they can't sell then in the city. Director Knopick said compliance would be an issue with additional inspections. Currently they only inspect stands when they first go up. They would need additional inspections to check the inventory, including storage containers. Shute said they can lose license for violating state restrictions, but can drive to Missouri. Gregorcyk suggested using the permit process and doing spot checks, and reducing the number of fireworks stands. Knopick said number of stands has held steady at 8-10. Gregorcyk recommends 6-8. City Attorney Denk said the ordinance provides specific detail about nature and grade of fireworks. Pruetting said he's referring to limiting the class C mortars. Baldwin said those are what the tents sell and they are expensive. Shute said there's concern in the community about that size of explosive and the noise. Deaton said that size is legal in Kansas, and people can buy them anywhere. The police would not be able to enforce, and it would hurt the city's tent sales. Baldwin said the only way to control what is bought is to get it through

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vendor. They won't want to lose their license. Differentiating which class C fireworks are allow and which ones aren't will deter vendors. Deaton is not in favor of changing the class; they should follow state law. Winters and Roberts agreed. Gregorcyk said municipalities can have stricter requirements. Permitting process can limit them. The portion of the community that are triggered should be considered. Shute asked for consensus to move forward with the permit change. Roberts, Winters, Baldwin, and Deaton said no; there was no consensus. Shute said staff will bring an ordinance for consideration at a later meeting.

PUBLIC HEARINGS

PUBLIC COMMENTS

No members of the public came forward.

CONSENT AGENDA

1. **Standing approval of the minutes as written for the regular meeting on July 19, 2021**
2. **Standing approval of City expenditures prepared July 16, 2021 in the amount of \$919,367.05; July 16, 2021 in the amount of \$7,899.42; and July 23, 2021 in the amount of \$1,095,961.20.**
3. **Consider authorizing the purchase of a laptop and accessories**
4. **Consider authorizing the execution of a contract with Ford Hall Company for Kill Creek WRRF Clarifier Improvements**
5. **Consider a funding request from the Southwest Johnson County Economic Development Corporation for a portion of a marketing campaign**

Councilmember Deaton made a motion to approve the Consent Agenda.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PLANNING & ZONING CONSENT AGENDA

COMMITTEE RECOMMENDATIONS

OLD BUSINESS

NEW BUSINESS

1. **Consider adopting an ordinance authorizing the issuance and delivery of \$4,710,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2021A, of the City of Gardner, Kansas; and providing for the levy and collection of an annual tax for the purpose of paying the principal and interest on the bonds as they become due**

Finance Director Matt Wolff said the next four business items are related to the 2021 debt sales. Bruce Kimmel, Ehlers, and Tyler Ellsworth, Kutak Rock, are presenting. Mr. Kimmel said the results were very good. He summarized the bond sales and what they will finance. They received 10 bids on 2021A bond. Piper Sandler was the winning bid, with a true interest cost of 0.90 %. In terms of refunding portions of the financing, they achieved a net savings of \$337,000. Mr. Kimmel said Director Wolff and Fiscal Services Manager Nancy Torneden have done a great job communicating with S&P over the years. When setting up the rating call for these transactions, S&P didn't need a call. That shows the respect that S&P has for Gardner's financial services staff and the quality of information that has been provided over the years. Kimmel continued, summarizing the B bonds. They received 4 bids; there are less ids on taxable bonds than tax-exempt. The winning bid came from Commerce Bank. These bonds go out for 20 years. The true interest cost is 1.95%; the pre-sale estimate was 2.5%. Special assessments will be paying this debt service.

Councilmember Baldwin said it's great they have AA- rating; they saved 1.36 mills. Mayor Shute said this is coming from bond and interest fund. Councilmember Gregorcyk asked why Commerce was attracted to the bond. Mr.

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Kimmel speculated an investor was looking for safety of an AA- rating but didn't need the tax advantages. They were willing to accept a yield of less than 2%. Gregorcyk said the lowest bid or best price versus value wins out.

Councilmember Baldwin made a motion to adopt an ordinance authorizing the issuance and delivery of \$4,710,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2021A, of the City of Gardner, Kansas; and providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the bonds as they become due.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2712.

Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes

2. Consider adopting a resolution prescribing the form and details of and authorizing the delivery of \$4,710,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2021A, of the City of Gardner, Kansas, previously authorized by an ordinance of the City

Councilmember Deaton made a motion to adopt a resolution prescribing the form and details of and authorizing the delivery of \$4,710,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2021A, of the City of Gardner, Kansas, previously authorized by an ordinance of the City

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2089.

Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes

3. Consider adopting an ordinance authorizing the issuance and delivery of \$2,185,000 principal amount of General Obligation Bonds, Series 2021B (taxable under Federal law), of the City of Gardner, Kansas; and providing for the levy and collection of an annual tax for the purpose of paying the principal and interest on the bonds as they become due

Councilmember Deaton made a motion to adopt an ordinance authorizing the issuance and delivery of \$2,185,000 principal amount of General Obligation Bonds, Series 2021B (taxable under Federal law), of the City of Gardner, Kansas; and providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on the bonds as they become due

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2713.

Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes

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4. Consider adopting a resolution prescribing the form and details of and authorizing the delivery of \$2,185,000 principal amount of General Obligation Bonds, Series 2021B (taxable under Federal law), of the City of Gardner, Kansas, previously authorized by an ordinance of the City

Councilmember Deaton made a motion to adopt a resolution prescribing the form and details of and authorizing the delivery of \$2,185,000 principal amount of taxable General Obligation Bonds, Series 2021B (taxable under Federal law), of the City of Gardner, Kansas, previously authorized by an ordinance of the City

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2090.

Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes

5. Consider adopting a resolution approving the 2022-2026 County Assistance Road System Program

Public Works Director Kellen Headlee said each year the city prepares a 5-year plan for the County Assistance Road System (CARS) program. The funding is used for up to 50% of construction on arterial road system projects. This year's 5-year plan, 2022-2026, the focus is on the 2022 submission, because that's the submission that will be reviewed for funding this year by the BOCC. Staff recommended 167th, Center to Moonlight, because it is the most pressing need in both condition and use factors.

Shute asked if the scope of improvement will include shoulders. Headlee said no; this project is resurfacing to preserve pavement. Shute asked if the CIE addresses that. Headlee is not aware of full depth replacement. Gregorcyk asked why shoulders were not considered, and is this roadway part of the half-cent sales tax. Headlee said when an arterial road is completely replaced it would get shoulders. This was a country road first, then an unimproved paved road. The use and pavement condition don't require bringing it to a fully improved arterial at this time. Pruetting said the expense of that improvement would be in the millions. This is a mill and overlay improvement, not complete redesign. Gregorcyk asked when it meets the requirement. It's heavily traveled. Headlee said they are updating traffic counts and getting a condition update on the road network later this year; that will inform future planning on the arterial network. Those two are primary drivers for repairs or upgrades. Baldwin said mill and overlay is appropriate now. Once this is done, the new overlay will attract more development to the north side. As traffic counts rise, they will need a turn lane, then it would be a rebuild and shoulders would be improved.

Shute asked what would be done about 199th Street. It needs improvements. The county was planning improvements before the city took jurisdiction. Headlee said CARS looks at a 5-year running rate of a per capita share of the CARS program, and Gardner is about 125% of its share. The typical 5-year run is about \$500,000. The section of 199th St. needs over \$3 Million to add shoulders and resurfacing. It can be included in CARS program, but looked at as entirety of arterial system. It's not on the 5-year plan right now, but the plan changes as conditions update. Shute said that road was previously budgeted by the county to be widened before the city took over. Pruetting said will be part of the discussion; there is a meeting on August 18. They will focus on truck traffic.

Councilmember Deaton made a motion to adopt a resolution approving a five-year program for road improvements for 2022-2026 within the City of Gardner, Kansas

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2091.

Winters:	Yes
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Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes

COUNCIL UPDATES

Recreation Superintendent Holopirek said Gardner Grind is August 21; over 200 people signed up so far. Grand Slam Wine, Beer and Spirits Fest tickets went on sale today.

Director Wolff said his staff will work on budget draft and prepare for public hearing. Mayor Shute personally appreciates the hard work that Wolff and his staff do. The comments from Mr. Kimmel were well earned; he extended gratitude from the governing body.

City Administrator Pruetting said they received the first payment of ARPA funds. Mayor Shute said there will be discussions on disbursement of funds. Pruetting said they haven't received final guidance yet. Director Wolff said they will have a presentation or worksession after they have final guidance.

Mayor Shute said they had an EDC meeting with Lt. Governor who has championed mid-range cities like Gardner to get more tools for economic development incentives. There have been more eco dev bills passed in the last year than in the previous 10 years, and he hoped that will trickle down to the city.

EXECUTIVE SESSION

1. Consider entering into executive session to discuss matters of attorney-client privilege related to proposed development projects

Councilmember Baldwin made a motion to recess into executive session pursuant to K.S.A. 75-4319 (b)(2), to discuss matters of attorney-client privilege related to proposed development projects beginning at 8:13 pm; returning to regular session at 8:43 pm.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Councilmember Gregorcyk made a motion to resume regular session at 8:43 p.m.

Councilmember Winters seconded.

With a majority of the Councilmembers voting in favor of the motion, the motion carried. (1 Absent)

Councilmember Roberts made a motion to recess into executive session pursuant to K.S.A. 75-4319 (b)(2), to discuss matters of attorney-client privilege related to proposed development projects beginning at 8:44 pm; returning to regular session at 8:59 pm.

Councilmember Winters Seconded.

With a majority of the Councilmembers voting in favor of the motion, the motion carried. (1 Absent)

Councilmember Baldwin made a motion to resume regular session at 8:59 p.m.

Councilmember Deaton seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

ADJOURNMENT

There being no further business to come before the Council, on a motion duly made by Councilmember Baldwin and seconded by Councilmember Deaton the meeting adjourned at 9:00 p.m.

City Clerk